

**AMENDMENTS TO THE DRAWINGS**

The attached sheets of drawings include changes to all drawings to improve line quality, and reference 130 was added to Figure 1.

**REMARKS**

Applicant hereby traverses the current objections and rejections, and requests reconsideration and withdrawal in light of the amendments and remarks contained herein. Claims 1-22 are pending in this application.

**Objection to the Drawings**

The Examiner has objected to the drawings, specifically that the drawings have poor line quality. In response, Applicant has submitted has cleaned up the line quality of the Figures. The Examiner has also objected to the drawings as not having element 130 discussed in the specification shown in Figure 1. In response, Applicant has amended the Figure 1 to include the number 130. As each identified instance of informality has been corrected with a corresponding proposed amendment, Applicant believes that the objection to the drawings has been overcome, and that this objection should be withdrawn.

**Objection to the Specification**

The specification stands objected to for informalities listed on page 3 of the Office Action. In response, Applicant has amended the specification to address the listed informalities. Each identified instance has been corrected with a corresponding amendment. No new matter has been entered. Thus, Applicant believes that the objection to the specification has been overcome, and that this objection should be withdrawn.

**Objection to the Claims**

Claim 7 is objected to for informality listed on page 3 of the Office Action. In response, Applicant has amended claim 7 to change the subject matter to subject matter that is different from that of claim 4. Claim 7 has been amended only for the purpose of resolving the cited informality, and not for the purpose of narrowing its scope in the face of prior art. No new matter has been entered, as basis for the amendment exists in the specification and drawings, for example see page 18, line 22. As this amendment addresses the recited informality, Applicant respectfully requests the withdrawal of the objection of record.

**Rejection under 35 U.S.C. § 102**

Claims 1-11 and 13-18 are rejected under 35 U.S.C. § 102(e) as being anticipated by Flavin ('603).

It is well settled that to anticipate a claim, the reference must teach every element of the claim, see M.P.E.P. § 2131. Moreover, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he elements must be arranged as required by the claim," see M.P.E.P. § 2131, citing *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Furthermore, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim," see M.P.E.P. § 2131, citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989). Applicant respectfully asserts that the rejection does not satisfy these requirements.

Claim 1 defines a streaming media server that provides a plurality of streams. Flavin does not disclose these limitations. The Office Action attempts to read elements 109 or 110 as the streaming media server, however, these neither of these elements provide a plurality of streams. Instead, 109 is a segment announcer that is a central data bank of descriptive information about the content of the streams 112, and is not identified as a source of the streams. Also, 110 is a segment announcer that allows a person to enter descriptive information about the content that they are perceiving, and is not identified as a source of the streams. Thus, Flavin does not teach the all of the claimed limitations. Therefore, the Applicant respectfully asserts that for the above reasons claim 1 is patentable over the 35 U.S.C. § 102 rejection of record.

Claim 13 defines a method for delivering program timing, structure, and identity information in media streams comprising identifying an event in the media stream. Flavin does not disclose these limitations. The Office Action attempts to read this limitation on elements 109 or 110 of Flavin by stating that elements 109 or 110 are streaming media servers. However, element 109 and 110 are not streaming media servers and neither of these elements identify an event in the media stream. Element 109 is a segment announcer that is a central data bank of descriptive information about the content of the streams 112, and does not identify an event in the media stream. Element 110 is a segment announcer that allows a

person to enter descriptive information about the content that they are perceiving, and does not identify an event in the media stream. Thus, Flavin does not teach the all of the claimed limitations. Therefore, the Applicant respectfully asserts that for the above reasons claim 13 is patentable over the 35 U.S.C. § 102 rejection of record.

Claim 16 defines a content distribution network comprising a media server for broadcasting at least one media stream having at least one structural point. Flavin does not disclose these limitations. The Office Action attempts to read this limitation on elements 109 or 110 of Flavin by stating that elements 109 or 110 are streaming media servers. However, element 109 and 110 are not streaming media servers and neither of these broadcast a media stream having at least one structural point. Element 109 is a segment announcer that is a central data bank of descriptive information about the content of the streams 112, and does not broadcast a media stream having at least one structural point. Element 110 is a segment announcer that allows a person to enter descriptive information about the content that they are perceiving, and does not broadcast a media stream having at least one structural point. Thus, Flavin does not teach the all of the claimed limitations. Therefore, the Applicant respectfully asserts that for the above reasons claim 16 is patentable over the 35 U.S.C. § 102 rejection of record.

Claims 2-11, 14-15, and 17-18 depend from base claims 1, 13 and 16, respectively, and thus inherit all limitations of their respective base claim. Each of claims 2-11, 14-15, and 17-18 sets forth features and limitations not recited by Flavin. Thus, the Applicant respectfully asserts that for the above reasons claims 2-11, 14-15, and 17-18 are patentable over the 35 U.S.C. § 102 rejection of record.

### **Rejection under 35 U.S.C. § 103**

Claims 12 and 19-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Flavin.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success.

Finally, the prior art cited must teach or suggest all the claim limitations. See M.P.E.P. § 2143. Without conceding the first and second criteria, Applicant asserts that the rejection does not satisfy the third criteria.

The Office Action admits that Flavin does not teach having the various limitations listed on pages 8 and 9 of the Office Action. The Office Action attempts to cure this deficiency by introducing common knowledge, which the Office Action alleges to teach having such limitations. However, this combination, as presented, does not teach or suggest all limitations of the claimed invention.

Base claims 1 and 16 are defined as described above. Flavin does not disclose these limitations, as discussed above. Common knowledge is not relied upon in the Office Action as disclosing these limitations. Therefore, Flavin as modified with common knowledge does not teach all elements of the claimed invention.

Claims 12 and 19-22 depend from base claims 1 and 16, respectively, and thus inherit all limitations of their respective base claim. Each of claims 12 and 19-22 sets forth features and limitations not recited by modified Flavin. Thus, the Applicant respectfully asserts that for the above reasons claims 12 and 19-22 are patentable over the 35 U.S.C. § 103(a) rejection of record.

### **Common Knowledge**

In the rejection of claims 12 and 19-22, Applicant notes that the Examiner has either relied on his own personal knowledge, or taken Official Notice, with respect to the subject matter discussed on pages 8 and 9 of the Office Action. Under Rule 37 C.F.R. § 1.104(d)(2), the Examiner is hereby requested to provide and make of record an affidavit setting forth his data as specifically as possible for the assertion. Alternatively, under M.P.E.P. § 2144.03, the Examiner is hereby requested to cite a reference in support of the assertion. Otherwise the rejection of claims 12 and 19-22 should be withdrawn.

**Conclusion**

For all the reasons given above, the Applicant submits that the pending claims distinguish over the prior art of record under 35 U.S.C. §§ 102 and 103. Accordingly, the Applicant submits that this application is in full condition for allowance.

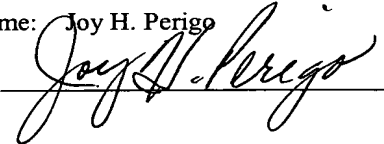
Applicant respectfully requests that the Examiner call the below listed attorney if the Examiner believes that such a discussion would be helpful in resolving any remaining problems.

Applicant believes no fee is due with this Response. However, if any additional fee is due, or at any time during the pendency of this application, please charge any additional fees required or credit any overpayment to Deposit Account No. No. 08-2025, under Order No. 10004571-1 from which the undersigned is authorized to draw.

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Label No. EV482710314US in an envelope addressed to: M/S Amendment, Commissioner for Patents, P O Box 1450, Alexandria, VA 22313.

Date of Deposit: June 24, 2005

Typed Name: Joy H. Perigo

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Respectfully submitted,

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